

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Francisco Santos,

Petitioner,

Case # 21-CV-6446-FPG

v.

DECISION AND ORDER

Merrick B. Garland, *et al.*,

Respondents.

Pro se Petitioner Francisco Santos brought this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his continued detention at the Buffalo Federal Detention Facility. ECF No. 1. On September 2, 2021, Respondents moved to dismiss the petition on several grounds and indicated that Petitioner’s removal was “presently scheduled to be removed in early September 2021.” ECF No. 5-3 at 7. On October 12, 2021, Respondents confirmed that Petitioner had been removed from the United States on September 7, 2021. ECF No. 7 at 1.

Given Petitioner’s removal, the Court *sua sponte* dismisses this action as moot. *See Bourdon v. Walker*, 453 F. Supp. 2d 594, 599 n.13 (N.D.N.Y. 2006) (“Federal courts must consider *sua sponte* matters, such as whether an action has become moot, that touch upon the court’s subject matter jurisdiction.”). “[A] case is moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *Cuong Le v. Sessions*, No. 17-cv-1339, 2018 WL 5620290, at *2 (W.D.N.Y. Oct. 29, 2018). To the extent a habeas petition challenges only the alien’s continued detention, the petition becomes moot once the petitioner is removed. *See, e.g., Torres v. Sessions*, No. 17-CV-1344, 2018 WL 5621475, at *2 (W.D.N.Y. Oct. 29, 2018) (collecting cases); *Garcia v. Holder*, No. 12 Civ. 3792, 2013 WL 6508832, at *2 (S.D.N.Y. Dec. 11, 2013) (same). This is because the relief sought in the “habeas proceeding—namely, release from continued detention in administrative custody—has been granted.” *Arthur v. DHS/ICE*, 713

F. Supp. 2d 179, 182 (W.D.N.Y. 2010). Accordingly, Petitioner's challenge to his continued detention has become moot in light of his removal, and his petition is dismissed. *See id.* As a result, Respondents' motion to dismiss is also rendered moot.

CONCLUSION

For the foregoing reasons, the petition (ECF No. 1) is DISMISSED. Respondents' motion to dismiss (ECF No. 5) is DENIED AS MOOT. The Clerk of Court is directed to enter judgment and close this case.

IT IS SO ORDERED.

Dated: December 22, 2021
Rochester, New York



HON. FRANK P. GERACI, JR.
District Judge
United States District Court